

STATUTES RELATING TO MINING

Sec. 22

Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining districts, so far as the same are applicable and not inconsistent with the law of the United States, R.S., Sec. 2319; Feb. 25, 1860, c. 85, Sec. 1, 41 Stat. 437.

Sec. 26

The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines

extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. . . . R.S. Sec. 2322.

Sec. 35

Claims usually called "placers," including all forms of deposit, excepting veins of quartz or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands. And where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the 10th day of May 1872, shall conform as near as practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead purposes. R.S. Secs. 2329, 2331; Mar. 3, 1891, c. 561, Sec. 4, 26 Stat. 1097.

Sec. 36

Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having continuous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser. R.S. Sec. 2330; Mar. 3, 1891, c. 561, Sec. 1, 26 Stat. 1097.

Sec. 38

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under sections 21-24, 26-30, 33-48, 50-52, 71, 76 of this title, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent. R.S. Sec. 2332.

Sec. 53.

No possessory action between persons, in any court of the United States; for the recovery of any mining title, *or* for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession. R.S. Sec. 910.

PUBLIC LANDS—

FUNCTIONS OF THE DEPARTMENT OF THE INTERIOR

Reorganization Plan No. 3 of 1950 Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, 5 U.S.C.A.

Sec. 481—Sec. 4

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

Sec. 483a

The legal work of the Department of the Interior shall be performed under the supervision and direc-

tion on the Solicitor on the Department of the Interior, who shall be appointed by the President with the advice and consent of the Senate. July 31, 1956, c. 801, Title I, Sec. 106 (b), 70 Stat. 739.

Order No. 2509, 17 Fed. Reg. 6791.

Sec. 23

Appeals in land cases. The Solicitor of the Department of the Interior may exercise all the authority of the Secretary of the Interior with respect to the disposition of appeals to the Secretary from decisions of the Director of the Bureau of Land Management (or his delegates), and from decisions of the Director of the Geological Survey (or his delegates), in proceedings which relate to lands or interests in lands.

Reorganization Plan No. 3, Sec. 103.

Eff. July 16, 1946, 11 F.R. 7876.

60 Stat. 1100, 43 U.S.C.A.

Sec. 1 (1959 Supp.)

(a) The functions of the General Land Office and of the Grazing Service in the Department of the Interior are hereby consolidated to form a new agency in the Department of the Interior to be known as the Bureau of Land Management. The functions of the other agencies named in subsection (d) of this section are hereby transferred to the Secretary of the Interior.

(d) The General Land Office, the Grazing Service, the offices of Commissioner of the General Land Office, Assistant Commissioner of the General Land

Office, Director of the Grazing Lease Service, all registers of the district land offices, and United States Supervisor of Surveys, together with the Field Surveying Service now known as the Cadastral Engineering Service, are hereby abolished.

(c) The Bureau of Land Management and its functions shall be administered subject to the direction and control of the Secretary of the Interior, and the functions transferred to the Secretary by subsection (a) of this section shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of the Interior as he may designate.

EMINENT DOMAIN

40 U.S.C.A.

Sec. 258a

In any proceeding in any court of the United States outside of the District of Columbia which has been or may be instituted by and in the name of and under the authority of the United States for the acquisition of any land or easement or right of way in land for the public use, the petitioner may file, in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the lands described in the petition, declaring that said lands are thereby taken for the use of the United States. . . .

28 U.S.C.A.

Rule 71 A

This rule provides the procedures to be followed in United States District Courts for the condemnation of real and personal property under the power of eminent domain, and the following portions apply:

Rule 71A(c)(3). "At any time, if compensation for a piece of property has been determined and paid and after motion and hearing, the court may dismiss the action as to that property, except that it shall not dismiss the action as to any part of the property of which the plaintiff has taken possession or in which the plaintiff has taken title or a lesser interest, but shall award just compensation for the possession, title or lesser interest so taken. The court at any time may drop a defendant unnecessarily or improperly joined.

Sec. 1358.

The district courts shall have original jurisdiction of all proceedings to condemn real estate for the use of the United States or its departments or agencies. June 25, 1948, c. 646, 62 Stat. 935.